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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,454	03/27/2006	Peter Klofer	KLOF3003/FJD	6562
23364 7590 08/14/2008 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER				
CROSLAND, DONNIE L				
ART UNIT		PAPER NUMBER		
2612				
MAIL DATE		DELIVERY MODE		
08/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/536,454

**Applicant(s)**

KLOFER ET AL.

**Examiner**

DONNIE L. CROSLAND

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 56-110 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-110 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 56-58 and 84-86 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Schleiss et al (6298454) or Sharpe, Jr. et al (5960214).

Each document provides the method and apparatus for determining the state of a measuring field device and includes registering at least one influencing variable influencing expected service life, or the ability of the measuring device to function and wherein the influencing variable is not the process variable (other data associated with the device, col. 3, lines 43-51 of Schleiss et al, influencing variable reading on the variability parameter, col. 7, lines 10-15 of Schleiss); col. 8, lines 1-12, cols. 2-4 of Sharpe; the comparing reading on the status monitoring, col. 5, lines 40-47 of Sharpe and the analysis 63 in figure 4 of Schleiss; And generating and issuing an alarm in each of the documents.

Claims 56-58 and 84-86 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Jaw (6490543) or Eryurek et al (20020169514)

These documents show the monitoring of field devices by registering a record or history of both influencing and processing variables and generating reports with respect to such for maintenance work, see the abstract, figures 1, 2, and 20, paragraphs 0003, 0012, 0041, 0051, 0105, 0109, 0111, and 0112 (comparison) of Eryurek; the abstract, figure 1, col. 2, lines 45-67, col. 3, lines 14-27, 52-55, col. 4, lines 58-67 col. 8, col. 9, lines 55-65 (environmental conditions) of Jaw.

In each of the documents as recited above an alarm or alarm report is generated with respect to faults of an analog nature and comparison with threshold determination (over, under) as well as a comparison and analyzing of the sensor data with respect to limits . The computer or microprocessor in the documents above achieves such analysis in determining probable service life of the components.

The predetermined maximum or minimum allowable value reads on the threshold setting for establishing limits in each of the above documents.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 59-83 and 87-110 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Sharpe, Jr. et al, Schieiss et al, Jaw, or Eryurek et al. See the comments above.

The limitations as recited in these claims are considered obvious over the disclosures of each of these documents. For example the bus in claim 59 is conventional; the retrieving of the alarm, paragraph 0046 of Eryurek; claim 60 is obvious over device 46 of Sharpe, as well as conventional interface devices for downloading is each document.

Claim 64, the physical variable is shown as environmental sensor 40 of Jaw.

The various influencing variables as recited in a matter of choice with respect to engineering and such would not involve patentable invention, see figure 3 of Jaw. The artisan recognizes such conditions as conventional with respect to field devices and

would pick or choose the specific parameters for aid in determining the probable service life.

The frequency of the alarm signals and values are realized in the above documents, for example, figures 4 and 5 of Jaw, col. 11, lines 37-63 of Schieiss.

Trend analysis (history) is suggested in the documents.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Soga et al, Ridolfo et al, Wetzer, Wood, Easter et al, and Sakurai et al are cited as showing additional systems for producing reports the corresponds to probable service life of a field device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Thur. 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL J. WU can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DONNIE L. CROSLAND/  
Primary Examiner, Art Unit 2612

DLC  
8-12-08